THE HONOURABLE SRI JUSTICE G. CHANDRAIAH

W.P. No.24153 of 1998

Date: 24-10-2007

Between:

The Depot Manager
A.P.S.R.T.C., Repalle,
Guntur District.

... Petitioner

And

The Depot Secretary,
Employees Union, A.P.S.R.T.C.,
Ponnur, Guntur District and another.

...
Respondents

ORDER:

This writ petition has been filed seeking a *Writ of Certiorari* to call for the records relating to the award dated 27-11-1997 passed in I.D. No.369 of 1994 by the learned Labour Court, Guntur and quash the same as arbitrary and illegal.

Brief facts of the case are that one Sri V. Papa Rao (hereinafter referred to 'the workman') was appointed as a Cleaner in A.P.S.R.T.C. (for short 'the Corporation') with effect from 15-11-1975 and during the year 1985 he was promoted as a Driver and attached to Repalle depot. On 10-11-1985 the workman caused a major accident and as a measure of punishment, he was reverted to the post of Cleaner for a period of one year with effect from 10-03-1986 and he was attached to the Tenali depot. While working as a Cleaner at Tenali depot, he again caused a fatal accident on 28-05-1986 and after conducting a detailed enquiry he was removed from service on 30-10-1986. Then the workman filed I.D. No.144 of 1988 before the learned Labour Court, Guntur, and the same was ended in setting aside the removal order of the Depot Manager stating that the workman is entitled to reinstatement with continuity of service without back wages. As per the order passed in I.D. No.144 of 1988 the workman was reinstated into the services as a Cleaner.

According to the petitioner, Corporation, the dispute is that

the Secretary, Employees' Union of the Corporation, Ponnur depot, filed I.D. No.369 of 1994 under Section
10 Clause 1 (c) of the Industrial Disputes Act, on behalf of the workman, claiming that the services of the workman shall be deemed to be in the category of the Driver from 10-03-1987 and also to pay the salary of a Driver setting aside the punishment of deferment of increments, as he had served the Corporation, during the period of reversion. As per the order of the learned Labour Court passed in I.D. No.144 of 1988, the workman was reinstated into the services as a Cleaner with continuity of service.

The Corporation had filed a detailed counter resisting the matter that the workman was reverted from the post of Driver to the post of Cleaner, as a measure of punishment for a period of one year for the accident caused by him.
Before completion of his punishment period, the workman had involved in another fatal accident and thereby the workman had lost his turn for restoration to the post of Driver as he was removed prior to the completion of punishment period of one year as a Cleaner. However,
as per the award of the learned Labour Court passed in
I.D. No.144 of 1988, the workman was reinstated into service without back wages as a Cleaner but not as a Driver.
Therefore, the workman lost his chance to become a Driver and he had no right to claim for the post of a Driver.
The workman was reinstated into service as a Cleaner at Ponnur depot on 08-06-1989 as per the order of the learned Labour Court and thereby he is entitled to a Cleaner's salary but not a Driver's

salary. Hence the workman is not entitled to any relief.

After elaborate consideration of I.D. No.369 of 1994, the learned Labour Court by order dated 27-11-1997 held that the action of the Corporation in not giving promotion to the workman on the ground that the workman is involved in another accident, during the course of punishment period, even after the restoration of his services, is not justified. Further the learned Labour Court directed the Corporation to promote the workman as a Driver from 11-03-1987 onwards and to pay him difference of wages for the period from 25-03-1989 till he regularly appointed as a Driver.

Learned standing counsel appearing for the Corporation submitted that consequent to order dated 27-11-1997 passed in I.D. No.369 of 1994, the workman was reinstated as a Driver and now he is working as a Driver.

Admittedly the workman was reverted as a Cleaner, as a measure of punishment for a period of one year and during the said period of punishment, the workman was involved in another accident. After conducting domestic enquiry, the workman was removed from service on 30-10-1986. Assailing the same, the workman filed I.D. No.144 of 1988 and the learned labour Court setting aside the removal order of the Corporation, directed to reinstate the workman as a Cleaner with continuity of service but without back wages. In that view of the matter,

it is obvious that the workman was in service even from 30-10-1986, date of removal of the workman. When once the continuity of service is given, it should be presumed and held that the workman is in service as a Cleaner as on 10-03-1987, by which date the previous punishment of reversion, as a Cleaner, is completed. From 11-03-1987 onwards, the workman must be deemed to have been in service as a Driver, since the period of punishment for one year was completed and the workman was reinstated into the services with continuity of service without back wages.

In that view of the matter, I do not find any irregularity or error in the impugned order.

Having regard to the facts and circumstances of the case and the submission made the learned standing counsel appearing for the Corporation that the workman had already been reinstated into the services as a Driver, the writ petition is devoid of merits and is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. There shall be no order as to costs.

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JUSTICE G. CHANDRAIAH

Date: 24-10-2007

LSK